

December 15, 2010

**MINUTES OF A REGULAR MEETING OF
THE TORRANCE PLANNING COMMISSION**

1. CALL TO ORDER

The Torrance Planning Commission convened in a regular session at 7:01 p.m. on Wednesday, December 15, 2010 in City Council Chambers at Torrance City Hall.

2. SALUTE TO THE FLAG

The Pledge of Allegiance was led by Commissioner Busch.

3. ROLL CALL

Present: Commissioners Busch, Browning, Uchima, Weideman, Skoll and Chairperson Horwich.

Absent: Commissioner Gibson.

Also Present: Planning Manager Lodan, Planning Assistant Graham, Plans Examiner Noh, Associate Civil Engineer Symons, Sr. Fire Prevention Specialist Kazandjian and Assistant City Attorney Sullivan.

MOTION: Commissioner Browning moved to grant Commissioner Gibson an excused absence from this meeting. The motion was seconded by Commissioner Weideman and passed by unanimous voice vote.

4. POSTING OF THE AGENDA

Planning Manager Lodan reported that the agenda was posted on the Public Notice Board at 3031 Torrance Boulevard on Thursday, Wednesday, December 10, 2010.

5. APPROVAL OF MINUTES – None.

6. REQUESTS FOR POSTPONEMENTS – None.

7. ORAL COMMUNICATIONS #1 – None.

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Chairperson Horwich reviewed the policies and procedures of the Planning Commission, including the right to appeal decisions to the City Council.

8. TIME EXTENSIONS – None.

9. CONTINUED HEARINGS – None.

10. WAIVERS – None.

11. FORMAL HEARINGS

11A. CUP10-00018: JOHN WOLF (INDUSTRIAL CENTERS CORP – BRAD HOWARD)

Planning Commission consideration for approval of a Conditional Use Permit to allow the operation of an indoor swimming facility on property located in the M-1 Zone at 2433 Moreton Street.

Recommendation: Approval.

Planning Assistant Graham introduced the request.

Assistant City Attorney Sullivan disclosed that his son has attended South Bay Aquatics Swim School in Redondo Beach, however, this would not affect his legal advice.

John Wolf, owner of South Bay Aquatics Swim School, 2610 Artesia Boulevard, applicant, voiced his agreement with the recommended conditions of approval. He reported that his swim school in Redondo Beach has been very successful and he would like to expand his operation with another facility in Torrance, which he hopes to open in April 2011.

Commissioner Skoll asked how the pools will be heated. Mr. Wolf explained that two large dehumidifiers will be needed to handle the humidity created by the indoor pools, which produce heat as a byproduct, and they will be the primary source for heating the pools with a gas heater as a backup. He noted that this is a very efficient system for heating the pools and solar heating was not an option because the roof of the building cannot support the equipment.

In response to Commissioner Busch's inquiry, Planning Manager Lodan advised that 3 handicapped parking spaces are required and 4 are provided.

Commissioner Browning voiced support for the project, relating his belief that it will be a great asset to the community.

MOTION: Commissioner Browning moved to close the public hearing. The motion was seconded by Commissioner Busch and passed by unanimous roll call vote (absent Commissioner Gibson).

Commissioner Weideman requested that Condition No. 6 be reworded for purposes of clarity.

MOTION: Commissioner Browning moved for the approval of CUP10-00018, as conditioned, including all findings of fact set forth by staff with the following modification:

Modify

No. 6 That all activities shall be conducted within the building unless a parking lot event has been approved.

The motion was seconded by Commissioner Busch and passed by unanimous roll call vote (absent Commissioner Gibson).

Planning Assistant Graham read aloud the number and title of Planning Commission Resolution No. 10-072.

MOTION: Commissioner Browning moved for the adoption of Planning Commission Resolution No. 10-072 as amended. The motion was seconded by Commissioner Busch and passed by unanimous roll call vote (absent Commissioner Gibson).

11B. MOD10-00009: NATIONAL SPORTS GRILL

Planning Commission consideration for approval of a Modification of a previously approved Conditional Use Permit (CUP93-00029) to allow live entertainment, dancing and the ability to charge an entrance/cover fee for events on property located in the C-3 Zone at 3210 Sepulveda Boulevard.

Recommendation: Denial without prejudice.

Planning Assistant Graham introduced the request and noted supplemental material available at the meeting consisting of correspondence received after the agenda item was completed.

Roger Diamond, 2115 Main Street, Santa Monica, attorney for the applicants, explained that the applicants would like to be allowed to offer live entertainment, patron dancing and the ability to charge entrance/cover fees in order to offset the loss of revenue due to the downturn in the economy. He noted that the restaurant/sports bar has had City permits that allow live entertainment and dancing for the last four years, but the owners were recently advised by the Police Department that they could not continue this activity because their Conditional Use Permit does not support it so they have applied for this Modification. He reported that the main objection to allowing this activity is concern about noise in the parking lot, however, a very capable security firm has been hired to ensure that all noise is contained inside the facility. He stated that the police department has requested more time to work with the applicants before any approval is given, but the applicants cannot survive financially if approval is delayed any further.

In response to Commissioner Browning's inquiry, Mr. Diamond indicated that his clients would prefer to be allowed to offer entertainment seven nights a week, but would agree to limit it to Thursday, Friday and Saturday in order to obtain approval. He noted that a local hospital was holding an event at the restaurant this evening.

Commissioner Weideman stated that he did not believe the hospital event was germane to this discussion because the applicant was proposing live entertainment and dancing between the hours of 10:00 p.m. and 2:00 a.m.

In response to Commissioner Busch's inquiry, Planning Manager Lodan stated that he did not know whether the cover fee would generate any revenue for the City and confirmed that the City does benefit from the sales tax on food/beverage sales.

Commissioner Busch asked about the Fire Department's request for revised plans, and Sr. Fire Prevention Specialist Kazandjian explained that removing tables and

chairs to create dancing areas could increase the occupancy load and staff needs to review the layout to ensure that egress requirements are met.

In response to Commissioner Busch's inquiry, Planning Manager Lodan advised that the required noise attenuation study would be completed during the plan check process.

Chairperson Horwich asked if there was any other establishment in Torrance that would require as many as 12 security people on the premises at one time, and Planning Manager Lodan responded that he knew of no other establishment that would require this level of security.

Robert Towers, managing partner of National Sports Grill, provided clarification regarding the proposal to charge a cover fee and confirmed that they do not charge for parking. He explained that while they don't plan to charge a cover fee when they have a D.J., they may wish to do so in the future to offset expenses. He noted that they currently charge customers a fee to offset the cost of pay-per-view events, which can run as high as \$5,000 for a sporting event, and this charge is based on the facility's fire code occupancy.

Alexis Burges, employee of National Sports Grill, urged approval of the application. She reported that she has been employed at this location for 15 years; noted that she is a single mother who has two daughters to support; and expressed concerns that the downturn in business has caused her to fall behind in paying her rent.

Steve Borge, employee of National Sports Grill, stated that he is working as a bartender and putting himself through college and he was pleased to find his job waiting for him when he returned after serving in the military in Afghanistan. He reported that business has been suffering since they are no longer able to have entertainment and dancing and employees are having a hard time making ends meet.

Tony Garcia, managing partner of National Sports Grill, provided background information about the restaurant/sports bar. He stated that it was part of a franchise when he and his partner purchased the business, but the company subsequently filed for bankruptcy and left them without any support. He reported that they invested a lot of money in improving the premises and were able to increase revenues to over \$2 million a year, however, business is suffering due to competition from new restaurants at the mall and the downturn in the economy so they need to be more creative in order to survive. He explained that late night entertainment and dancing has been sustaining the business for the past three and a half years and he believes they have done a good job of controlling the situation as evidenced by the fact that they have received very few complaints during that period. He urged the Commission to approve the Modification on a one-year trial basis.

In response to Commissioner Uchima's inquiry, Mr. Garcia explained that they typically use between 6 and 12 security guards depending on the size of the event; that they were holding these late night events on Fridays and Saturdays, with alcohol service ending at 1:30 a.m. and everyone out of the building by 2:00 a.m.; and that he could not recall any complaints from neighbors about the music or dancing, but he did receive some complaints about a car show held in the parking due to revving engines.

Chairperson Horwich stated that he had read the material included in the staff report and was willing to stipulate that the security firm hired by the applicants is a reputable agency so it was not necessary for representatives to speak at this hearing.

Shawn Riley, 5 Diamond Protection, security agency for National Sports Grill, wanted to note that the agency provides security for many similar venues.

Commissioners asked if he was aware of any problems that have occurred at the National Sports Grill and Mr. Riley stated that he mainly does training and is not assigned to this location.

Francisco Meza, 5 Diamond Protection, reported that he has been the supervisor of security at the National Sports Grill for approximately 1½ months and no problems have occurred during his time there.

Police Lieutenant Mike Jezulin, Vice and Narcotics Division Commander, advised that the police department was opposed to this application because it could compromise public safety and adversely impact the quality of life for residents. He explained that in addition to noise issues, the police department was concerned that approval of the application could lead to more criminal activity and calls for service at the restaurant/sports bar thereby reducing the number of officers available to respond to other calls. He reported that there have been 24 calls for service this year to date involving the restaurant/sports bar that required multi-unit response, and related his belief that the number will increase should this operation change from a restaurant/sports bar to a nightclub that can accommodate over 400 people. He noted that the Police Department does not object to the private events being held at this facility and that they are already allowed to charge for pay-per-view events per their existing Conditional Use Permit.

Commissioner Browning questioned whether the police department would feel more comfortable if there was a 250 person limit and Lieutenant Jezulin stated that while smaller would be better, he was still concerned about the nightclub environment and the potential for more disturbances.

Commissioner Skoll asked if the Police Department would support the Modification with the implementation of the recommended conditions and Lieutenant Jezulin clarified that the Police Department was recommending denial of the application, but came up with the recommended conditions in the event the Commission decides to approve it.

Asked to elaborate on calls to the restaurant/sports bar, Lieutenant Jezulin advised that there were incidents involving fights and drunkenness but he would have to review the police reports for details. He recalled that there was an incident on September 19, 2010 where there was a Mariachi band and dancing at an un-permitted event for which the restaurant received a citation.

In response to Commissioner Bush's inquiry, Lieutenant Jezulin clarified that the police department's visit to the restaurant on September 19, 2010 was prompted by information received from the Patrol Division about un-permitted events at the location and was not the result of a call for service.

Responding to questions from the Commission, Assistant City Attorney Sullivan confirmed that should the Commission grant the applicant's request for a 12-month trial period, the matter could be brought back to the Commission sooner if any problems develop.

In response to Chairperson Horwich's inquiry, Lieutenant Jezulin stated that he was not aware of any other operation in Torrance that would need to have 12 security guards on hand.

The Commission briefly recessed from 8:15 p.m. to 8:25 p.m.

Chairperson Horwich invited public comment.

David Chu, owner of China Tea House, 3214 Sepulveda Boulevard, reported that the National Sports Grill has been a good neighbor and has helped with parking issues when his restaurant has had large parties. Voicing support for the proposed Modification, he noted that National Sports Grill is facing a lot of competition from new restaurants at Del Amo mall and it is a large facility that requires a lot of revenue to support it. He related his belief that the owners have made an effort to address neighbors' concerns.

Irma Maggio, Nadine Circle, suggested that many more people from New Horizons would have attended this meeting had it not been during the holiday season. She stated that the applicants are proposing an after-hours nightclub, which will attract an entirely different crowd than those who watch sporting events that end at 10:00 p.m. She expressed concerns that even though the security firm appears to be very competent, security could get out of hand when there is a large group of young people flooding the parking lot at 1:00 – 2:00 a.m. after a night of drinking. She reported that there have been problems with noise in the parking lot before, including the revving engines at the car show, which she later learned was un-permitted. She urged the Commission to deny the Modification or at least limit the approval to a three to six month trial period.

Commissioner Browning suggested that young adults need a place where they can socialize and dance in a controlled environment.

Ms. Maggio expressed concerns that the nightclub would draw people from outside the area.

Noting that he formerly lived in New Horizons, Commissioner Busch recalled that there is a high block wall separating National Sports Grill from the development so trespassing should not be an issue.

Indicating that her concerns are noise-related, Ms. Maggio explained that she tries to be a good neighbor and not complain about noise in the parking lot, which generally stops after 10:00 p.m., but she fears that the nightclub atmosphere will bring in a different type of clientele and greatly exacerbate the problem.

Marie Sasaki, Nadine Circle, New Horizons Civic Affairs Committee, questioned whether security personnel would be included in the 443 person capacity. She expressed concerns that noise in the parking lot could increase because people get overheated when dancing and go outside to cool off and they also drink in their cars to

avoid paying for expensive drinks in the bar. She requested that there be a trial period of no more than six months if the Commission decides to approve the Modification.

Bobby McNeel, Pacific Village Homeowners Association, 3120 Sepulveda Boulevard, reported that homes in his development overlook the National Sports Grill parking lot and residents have been subjected to noise from fights and blaring horns, as well as noise from other late-night activity in the area, which makes it difficult to sleep. He suggested that the fact that there have been 24 incidents this year that have required police response speaks for itself and urged the Commission to deny the Modification.

In response to Commissioner Busch's inquiry, Mr. McNeel reported that Pacific Village was built in 2001. Commissioner Busch noted for the record that New Horizons was built in 1964.

Commissioner Busch asked if the HOA would support conditional approval of the Modification for a period of 3-6 months. Mr. McNeel stated that he personally would not support conditional approval, but the HOA has not taken a position on this issue.

Commissioner Browning stated that he understood that the applicants believe live entertainment and dancing is critical to their business, however, he wasn't comfortable approving the Modification without some kind of track record. He asked if there was a procedure whereby events could be approved on a case-by-case basis for a few months before making a decision on this application.

Planning Manager Lodan confirmed that there is a mechanism for allowing events on a case-by-case basis. He reported that the applicants had been working with the police department on an incremental approach so they could establish a track record for this type of event, but they felt that the process was moving too slow. He noted that the Lucky Strike bowling alley is engaged in a similar process and has submitted a calendar of events for approval by the City's Special Events Team in order to establish a track record before submitting an application.

Commissioner Browning indicated that he was inclined to favor a 2-3 month continuance and allowing the applicants to hold events on a case-by-case basis during that time to establish a track record.

Commissioner Weideman stated that he was not in favor of a continuance and was prepared to vote on the matter this evening. He pointed out that unlike the National Sports Grill, the Lucky Strike bowling alley has no residences around it.

Mike Randles, 3220 Sepulveda Boulevard, #220, reported that he and others who own businesses in the Madrona Medical and Professional Center have serious reservations about the proposed Modification because it would in effect change the restaurant/sports bar into a nightclub. He expressed concerns about Condition No. 16, which requires the recording of cross access easements to allow for access between the subject property and the Madrona Medical and Professional Center. He explained that doctors in the center have sensitive data in their offices and they are concerned that allowing cross access would lead to more break-ins and vandalism and they are also concerned that it would exacerbate existing parking problems at the center. He reported that dense vegetation on the subject property is creating a problem because homeless people are living there and breaking into offices to spend the night.

Martha Morris, Nadine Circle, stated that she moved to Torrance in 2002 because it is a family-oriented city, but made a mistake by buying a unit in New Horizons that is too close to the perimeter wall. She expressed concerns that the proposed Modification would only add to the noise problem and urged the Commission to ignore the sob stories and deny the application.

Returning to the podium, Mr. Diamond contended that the police department had overstated their case, noting that when asked to elaborate on the 24 incidents, Lieutenant Jezulin could recall only one event that was allegedly un-permitted and this incident was the result of a business check and not a call for service. Pointing out that the presumption of innocence is fundamental to our judicial system, he urged the Commission to give the applicants a chance to prove themselves and not condemn them for things that have not yet happened.

To address neighbors' concerns about parking lot noise, Mr. Garcia proposed to provide free valet service for customers so that they could drop off and pick up their vehicles by the front door, which is a considerable distance away from residences. He stated that he did not want to cause anyone to lose sleep and apologized for any inconvenience to nearby residents.

Mr. Towers expressed his willingness to work with neighbors to address any concerns they may have. He offered to clear out vegetation where people could hide and to have security patrol adjacent parking lots.

Planning Manager Lodan provided clarification regarding Condition No. 16, explaining that it does not require the National Sports Grill parking lot to be connected with the Madrona Medical and Professional Center parking lot and only requires that a cross access agreement be recorded for future use. He advised that this is a standard condition for commercial properties designed to enable people to travel between properties without having to go out onto public streets.

Mr. Towers asserted that any incidents that occurred at the restaurant/sports bar were minor in nature and quickly taken care of. He stated that the previous security firm had friends on the police force and normally a police sergeant would be parked outside and that's how incidents were documented.

A brief discussion ensued regarding the possibility of using valet parking to address noise concerns. Planning Manager Lodan pointed out that there could be a potential problem with groups of people congregating by the front door waiting for their cars at the end of the night. Commissioner Busch proposed cutting the lot in half with the rear portion reserved for valet and allowing self-parking in the front portion near the building.

Commissioner Uchima expressed concerns that customers might park in other nearby lots to avoid having to use the valet service. Mr. Towers suggested that employees stationed at the patio and front door could monitor the situation to ensure that walk-ups are turned away, noting that there would be no charge to customers for the valet service.

Commissioner Uchima stated that he was concerned about turning the entire restaurant into a nightclub with a capacity of over 400 people. Mr. Garcia explained that the facility will be broken down into smaller well defined areas as they have learned that this makes it easier to supervise and control people.

In response to questions from the Commission, Mr. Garcia provided clarification regarding the changing of security firms. He explained that they have used three different security firms since taking over the business; that 5 Diamond Protection has only been providing security for the past two months; that they stopped contracting with the previous firm because they learned it no longer had liability insurance; and that the firm before that was a partnership, which was dissolved. He noted that they only use reputable firms that have the necessary insurance and bonding.

At the Commission's request, Lieutenant Jezulin briefly reviewed some of the more recent calls for service at the National Sports Grill, which included calls for fights, drunkenness and domestic violence, noting that many of the incidents seem to have occurred in the parking lot. He confirmed that there have been no calls for service since the new security firm took over two months ago.

Commissioner Uchima asked if the police department would be more inclined to support the Modification if there was valet service, a midnight closing time, and a limit on the capacity.

Lieutenant Jezulin advised that the police department was open to any conditions that would tend to minimize problems, however, they remain opposed to this fundamental change in the restaurant's operations. He recommended if the Commission chooses to go this route, that changes be done incrementally in "baby steps."

Commissioner Uchima indicated that he was inclined to give the applicants a chance to prove themselves using an incremental approach, as long as it can be done without creating a nuisance for neighbors or putting a strain on police resources.

Commissioner Busch also favored giving the applicants a chance using an incremental approach. He suggested a 12:30 a.m. closing time, with the service of alcoholic beverages to stop at midnight and recommended that the use of valet parking be explored to minimize parking lot noise.

Commissioner Browning asked if there could have been more than the 24 calls for service mentioned, i.e. a call where the officer was unable to locate the suspect, therefore no report was filed. Lieutenant Jezulin explained that every time a call is dispatched, it is given an incident number and he included all incidents that were associated with this address leaving out traffic stops and routine business checks.

In response to Commissioner Weideman's inquiry, Lieutenant Jezulin confirmed that the applicants were cited for un-permitted events.

Commissioner Weideman commented that he thought Mr. Diamond's argument that the applicants should not be condemned without being given a chance to prove themselves was disingenuous because there is a history of un-permitted events at this location.

Chairperson Horwich thanked Lieutenant Jezulin for attending the meeting, noting that this was the first time he could recall a member of the police department appearing at a Commission meeting to personally provide input.

MOTION: Commissioner Browning moved to close the public hearing. The motion was seconded by Commissioner Busch and passed by unanimous roll call vote (absent Commissioner Gibson).

Indicating that he would not support the Modification, Commissioner Weideman noted that he has attended Little League parties, Christmas parties and watched soccer games at the National Sports Grill, however, these types of events are nothing like what the Commission was being asked to approve, which is live entertainment and dancing from 10:00 p.m. to 2:00 a.m. for up to 443 people. He reported that he reviewed past records from prior Planning Commissions and City Councils included in the agenda material and found no evidence that these activities were ever approved and in fact it appears that special constraints were placed on this venue because of its location next to residences. He suggested that there must have been a reason for a police sergeant to be parked at this location on a regular basis and this was indicative of problems.

Commissioner Browning related his belief that a lot of the issues could have been resolved if the applicants had made an effort to share their plans with neighbors and expressed reservations about approving the Modification at this time.

Commissioner Skoll stated that he was convinced that the applicants were willing to do whatever it takes to make this a viable business and he believed that they deserved a chance to prove that they can make this work.

Commissioners briefly discussed the best way to proceed. It was the consensus of the Commission to continue the hearing and allow City staff and the police department to approve events on a case-by-case basis so the applicants could establish a track record using an incremental “baby steps” approach. It was recommended that there be limits on occupancy and the hours of operation and that the use of valet parking be explored. It was also suggested that the applicants contact New Horizons and Pacific Village homeowners associations and businesses in the Madrona Medical and Professional Center to try to resolve their concerns.

Commissioner Weideman questioned whether residents would have any input regarding the approval of events, and Planning Manager Lodan responded that typically residents would not be involved when events are approved by the Special Events Team, however, due to the nature of this hearing, they would be notified.

MOTION: Commissioner Skoll moved to continue the hearing indefinitely. The motion was seconded by Commission Busch.

Chairperson Horwich offered a substitute motion.

MOTION: Chairperson Horwich moved to continue the hearing indefinitely for a period not to exceed 90 days. The motion was seconded Commissioner Busch and passed by unanimous roll call vote (absent Commissioner Gibson).

12. RESOLUTIONS – None.

13. PUBLIC WORKSHOP ITEMS – None.

14. MISCELLANEOUS ITEMS

14A. ANNUAL REPORT FORMAT

Planning Manager Lodan advised that he had discussed the Commission's request that the time period for the Planning Commission Annual Report be changed from the calendar year to the fiscal year with the Community Development Director and he expressed concerns about this change because the building permits on which the report is based are tracked on an annual basis, therefore staff was recommending that current format be retained. He noted that preliminary work on the 2010 report has been completed and it will be submitted to the Commission in January.

Commissioner Skoll related his preference for the fiscal year because this would conform to the term of the Chairperson who signs the report.

Planning Manager Lodan noted that some of the Commissions prepare their own annual report rather than having staff do it and offered to provide the necessary data if Commissioners wish to change the format.

Chairperson Horwich voiced his opinion that there was no need to change the format and suggested that the signature issue could be solved by having both people who serve as chairperson during that particular calendar year sign the report.

A straw vote was conducted, and it was the consensus of the Commission to continue with the calendar year format.

15. REVIEW OF CITY COUNCIL ACTION ON PLANNING MATTERS – None.

16. LIST OF TENTATIVE PLANNING COMMISSION CASES

Planning Manager Lodan noted that the January 5, 2011 Planning Commission meeting has been cancelled.

17. ORAL COMMUNICATIONS #2

17A. Planning Manager Lodan extended holiday greetings on behalf of Community Development staff.

17B. Assistant City Attorney Sullivan reported on lawsuits filed against the City concerning the new Walmart and the Delurgio project on Via El Toro.

17C. Commissioner Busch wished everyone happy holidays and a prosperous new year.

17D. Commissioner Browning indicated that he had documentation confirming that he had taken the required Commission Certification training and AB1234 training, which he planned to submit to Assistant City Attorney Sullivan in order to clear up any confusion on this issue.

17E. Commissioner Busch expressed concerns that AB1234 training has been not been scheduled and the end of the year is rapidly approaching.

17F. Commissioner Weideman noted that City Attorney Fellows mentioned at the last meeting that the legislation includes no enforcement mechanism so there is no penalty should Commissioners fail to complete AB1234 training by the December 31 deadline.

17G. Chairperson Horwich wished everyone happy holidays and thanked them for their patience during the long discussion of Item 11B, relating his belief that the discussion was productive and resulted in a good compromise.

18. ADJOURNMENT

At 10:22 p.m., the meeting was adjourned to Wednesday, January 19, 2011 at 7:00 p.m.

Approved as Submitted February 16, 2011 s/ Sue Herbers, City Clerk
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